

REMARKS/ARGUMENTS

Claims 5-7 are pending in the present application. The previous rejection of the claims under 35 U.S.C. § 102(b) has been withdrawn. The only remaining rejection is a provisional obviousness type double patenting rejection over claim 3 of copending Application No. 10/92,902, filed July 11, 2002.

According to the Office Action, claim 3 of the '902 application is distinguished from the compositions of the present invention because it further requires at least one primer with a modified 3' terminal residue. As noted by the Examiner, the claims of the present application are directed to compositions comprising the required elements and thus encompass the compositions of claim 3.

The MPEP makes clear that a provisional double patenting rejection should not be maintained when it is the only remaining rejection. In particular, MPEP 822.01 states:

The "provisional" double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that "provisional" double patenting rejection is the only rejection remaining in one of the applications. If the "provisional" double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the "provisional" double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent. (emphasis added)

Since, as noted above, the provisional double patenting rejection is the only outstanding rejection, the current application should be allowed to issue. In light of the clear direction of the MPEP, withdrawal of the rejection is respectfully requested.

CONCLUSION

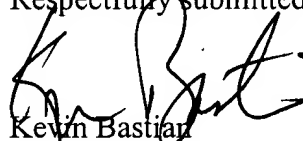
In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an

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Reply to Office Action of January 30, 2004

PATENT

early date is respectfully requested. If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at 415-576-0200.

Respectfully submitted,



Kevin Bastian
Reg. No. 34,774

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
Attachments
KLB:klb
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